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EXAMINER

ST CYR, DANIEL

ART UNIT

PAPER NUMBER

28/6

DATE MAILED: 05/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09 021,370

Examiner

Daniel St Cyr

Applicant(s)

HASHIMOTO, KEN

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133)
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2003
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22, 24 and 25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22, 24 and 25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
- 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other \_\_\_\_\_

### DETAILED ACTION

1 Receipt is acknowledged of the amendment filed 2/14/03 in which the independent claims 1, 2, 5, 10-12, 14-17, 20, and 24 were amended.

#### *Claim Rejections - 35 U.S.C. § 103*

2 The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3 Claims 1-3, 5-10, 12-25, are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimamura et al, US Patent No. 5,522,509 in view of Matsuoaka et al, US Patent No. 5,875,434, and Kelly et al, US patent No. 6,010,074.

Shimamura et al discloses an apparatus and a tableware sorting apparatus comprising: a reading means 23 for reading data in a non-contact state from a plurality data carriers 12 attached to a plurality of container 11 of dishes selected by the customers; a calculating means 21 for calculating a charge for the one dish; a writing means is inherently included for writing the data in the data carrier in order for the system to operate. (See col. 4, lines 1-27); antennas 31,32, serve as input means for inputting data to be used to calculate the charge. (See col. 4, lines 39-47); the data carrier 12 is attached to the bottom 11a of the container 11, and said reading means reads the data collectively from the data carrier of the container placed on the tray 24. (See col. 4, lines 1-27); said reading means reads price data, the kind, of each dish from the carrier and said calculating means adds up the price of each dish and calculates the charge for the one dish and outputs the kind of dish in a display. A register or a computer for storing the kind and the

price, of each dish (see col. 3, lines 24-27). (See col. 3, lines 35-52), one or more items of goods are arranged flatly so that the directions of attached data carriers is the same, and said reading means reads the data collectively from the data carriers of the one or more goods arranged flatly (See figure 6, col. 4, lines 19-28).

Shimamura et al fail to disclose or fairly suggest that the tag is a rewritable tag

Matsuoka et al disclose a system for picking articles comprising: a terminal 4; a rewritable wireless tag 1 attached to a box 1, wherein the tag includes a microprocessor 11, ROM 12, antenna unit 17, etc. (see col. 8, line 7+).

In view of Matsuoka et al, it would have been obvious for a person of ordinary skill in the art at the time the invention was made to employ the notoriously old and well-known wireless tag of Matsuoka into the system of Shimamura et al in lieu of the resonance tag for facilitating price update and for providing more effective communications. Furthermore, such modification would enhance and make the system more reliable and more practical, wherein each plate could program/reprogram so that various type of dish with different price could be served with each plate. Regarding waiting a predetermined period before answering, inherently the system waits a predetermined time period to process the received information to formulate an appropriate respond. Therefore, such modification would have been an obvious extension as taught by Shimamura et al.

Shimamura et al as modified by Matsuoka et al fail to disclose or fairly suggest that the data carriers enter a state of waiting a predetermined random period before answering to inquiries.

Kelly et al disclose a contactless proximity automated data collection system and method with collision resolution comprising: a tag 50, a reading means 10, wherein the tag waits a random period of time before answering inquiries from the reading means (see figure 1 and col 6, lines 2-10).

In view Kelly et al's teachings, it would have been obvious for a person of ordinary skill in the art at the time the invention was made to employ the well known protocol (i.e. random wait) into the system of Shimamura et al as modified by Matsuoka et al for providing effective communication with the tags. Furthermore, this type of protocol is well known in the art for packet data communication in order to avoid data collision. Therefore, it would have been an obvious extension as taught by Shimamura et al as modified

4 Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shimamura et al, as modified by Matsuoka et al and Kelly et al as applied to claim 2 above, and further in view of Ehrat, US Patent No. 3,836,755.

Shimamura et al, as modified by Matsuoka et al and Kelly et al do not disclose or fairly suggest a measuring means for measuring the weight of the dish or drink.

Ehrat discloses a self-service shop wherein a measuring means 182 for measuring and detecting the weight of the goods (see col. 3, lines 43-53).

It would have been obvious for a person of ordinary skill in the art at the time the invention was made to incorporate the measuring means of Ehrat into the system of Shimamura et al, as modified by Matsuoka et al and Kelly et al for the purpose of monitoring the goods from the tray of the adjusting apparatus. Furthermore, having a measuring means into the system of Shimamura et al, as modified by Matsuoka et al and Kelly et al would allow the system to sell

goods according their weight wherein the adjusting apparatus would calculate the price of the item corresponding to its weight which would make the system more practical and more versatile. Therefore, it would have been an obvious extension as taught Shimamura et al. as modified by Matsuoka et al and Kelly et.

5 Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shepley, US Patent No. 5,478,989 in view of Matsuoka et al, US patent No. 5,875,434 and Kelly, US Patent No. 6,010,074.

Shepley discloses a nutritional information system for shoppers comprising: a reading means 29 for reading data in non-contact state from data carriers, such as bar code, attached to a container of the dish or drink selected by the customer, the system calculates the nutritional information of the dish or drink selected by the customer, and displays the information. (See figures 3, 5, col. 7, lines 27-46). Shepley discloses a nutritional information system for aiding customers with their purchase, but fails to display the calorie. However, since Shepley is most concerned with nutritional information, a person of ordinary skill in the art would have been motivate to provide customers with the ability to obtain nutritional information, including calorie information of the dish or drink in order to allow customers to make better food choices, which would help customers controlling their specific diet. Therefore, it would have been an obvious expedient.

Shepley fails to disclose that the data carrier is a rewritable carrier having a communication control logic.

Matsuoka et al disclose a system for picking articles comprising: a terminal 4; a rewritable wireless tag 1 attached to a box 1, wherein the tag includes a microprocessor 11, ROM 12, antenna unit 17, etc. (see col. 8, line 7+).

In view of Matsuoka et al, it would have been obvious for a person of ordinary skill in the art at the time the invention was made to employ the notoriously old and well-known wireless tag of Matsuoka into the system of Shepley in lieu of the carrier of Shepley for facilitating price update and for providing more effective communications. Furthermore, such modification would enhance and make the system more reliable and more practical, wherein each tag could be programmed/reprogramed to be used/reused for various different products. Regarding waiting a predetermined period before answering, inherently the system waits a predetermined time period to process the received information to formulate an appropriate respond. Therefore, such modification would have been an obvious extension as taught by Shepley.

Shepley as modified by Matsuoka et al fail to disclose or fairly suggest that the data carriers enter a state of waiting a predetermined random period before answering to inquiries.

Kelly et al disclose a contactless proximity automated data collection system and method with collision resolution comprising: a tag 50; a reading means 10, wherein the tag waits a random period of time before answering inquiries from the reading means (see figure 1 and col. 6, lines 2-10).

In view Kelly et al's teachings, it would have been obvious for a person of ordinary skill in the art at the time the invention was made to employ the well known protocol (i.e. random wait) into the system of Shepley et al as modified Matsuoka et al for providing effective communication with the tags. Furthermore, this type of protocol is well known in the art for

packet data communication in order to avoid data collision. Therefore, it would have been an obvious extension as taught by Shepley et al as modified by Matsuoka et al.

***Response to Arguments***

6 Applicant's arguments with respect to claims 1-22, 24, and 25 have been considered but are moot in view of the new ground(s) of rejection.

The "random wait" required further consideration.

***Conclusion***

7 Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

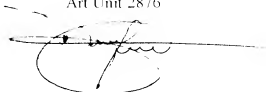
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel St Cyr whose telephone number is 703-305-2656. The examiner can normally be reached on Mon-Fri.



If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G Lee can be reached on 703-305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7721 for regular communications and 703-308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

Daniel St Cyr  
Examiner  
Art Unit 2876

A handwritten signature in black ink, appearing to read 'Daniel St Cyr', is written over a horizontal line. The signature is stylized with a large loop at the end.

DS  
May 1, 2003